United Nations A/HRC/31/NGO/155

General Assembly

Distr.: General
22 February 2016

English only

Human Rights Council
Thirty-first session
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Joint written statement* submitted by Global Helping to Advance Women and Children, non-governmental organizations in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[15 February 2016]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.16-02689(E)

Please recycle

Joint NGO Submission Addressing UN OHCHR Report on Protection of the Family Resolution 29/22
February 15, 2016

These comments are submitted on behalf of Global Helping to Advance Women and Children, the UN Family Rights Caucus, and 26 other supporting organizations.

Much of the OHCHR report is laudable. For example, it recognizes the critical role of the family "in the development process" (para. 12), the family's role "in the transmission of values within society that are vital for making sustainable development agenda a reality...." and the importance of establishing more family-centered policies (see para. 18).

However, we are gravely concerned that the report goes on to undermine the essence of HRC resolution 29/22 by attempting to redefine the family based on two false claims.

First, the report claims that "International standards do not prescribe a specific concept of family. . ." (para. 22) and that "There is no definition of the family under international human rights law" (para. 24). Thus, "the family" should be understood "in a wide sense" (para. 24).

"The family" is not *directly* defined in international law because there was no need to do so, as Member States have commonly understood for millennia that it refers to mother/father led family units. But, given the longstanding widespread consensus on this term, "the family" is *indirectly* defined in major UN documents. For example, consensus language referring to the family as the basic unit of society also refers to husband and wife being equal partners in marriage:

> "The family is the basic unit of society and as such should be strengthened. It is entitled to receive comprehensive protection and support. In different cultural, political and social systems, various forms of the family exist. *Marriage* must be entered into with the free consent of the intending spouses, and ***husband*** and *wife* should be equal partners." ICPD (1994), Chapter II, Principle 9; Social Summit (1995), 80. *See also* Habitat (1996), 31. *See also* Habitat +5 (2001), 30.

Other UN consensus documents state that parenting responsibilities within the family should be carried out by "men and women," referring to fathers and mothers:

- The "equal sharing of responsibilities for the family by *men* and *women*, and a harmonious partnership between them are critical to their well-being and that of their families...." Beijing Declaration Annex I, 15.

- State Parties "shall take appropriate measures" to recognize "the common responsibility of *men* and *women* in the upbringing and development of their children...." CEDAW, Art. 5-b. *See also* Beijing (1995), 29; ICPD (1994), 4.1.

No UN consensus language references parenthood by same sex couples. UN consensus language does recognize the need to support "female-headed households, including divorced, separated and unmarried women and widows," who "are at particular risk of poverty" as well as grandparents caring for children. Ageing (2002), 46, 103, 106(c). The UN highlights these households because of their vulnerable nature and thus their need for support.

UN treaties and other consensus documents, however, grant special legal protection to "the family" --i.e., mother/father led family units -- because they can procreate; provide the optimal environment for children; and create the human capital that sustainable development depends upon.[1] On the other hand, the data show that deviations from the mother/father married family structure generally lead to greater poverty, crime, violence, substance abuse, disease and

[1] Patrick D. Fagan, "Effects of Marriage on Society," available at: www.marripedia.org/effects_of_marriage_on_society.

other problems that in turn require heavy expenditures by governments to fix.[2] For example, one study revealed that the breakdown of the family in the U.S. alone costs taxpayers a staggering $112 billion annually.[3] Thus governments have a vested interest in protecting the family.

The report also states that "Internationally agreed texts adopted at [UN] summits and conferences" indicate a "consensus" that "varied forms of the family" are now internationally recognized (para 15).

To claim there is international consensus on the term "various forms of the family" is false and disingenuous. This is now one of the most controversial terms in UN negotiations. In recent years, every time "various forms of the family" has been proposed in UN outcome documents, it has been rejected by a large number of UN Member States. It was also expressly rejected during the negotiations on resolution 29/22.

While the term "various forms of the family" was accepted in a number of nonbinding UN documents, this was before 2005, prior to some States interpreting it to include controversial family forms. Moreover, it has never appeared in *any* binding international UN human rights instruments due to lack of consensus. Many Member States consider the term to be problematic as it is too vague, leaving it open for interpretation. With the emergence of multiple, controversial modern family forms detrimental to children (e.g., polyamorous, polyandrous and incestuous relationships), Member States should continue to reject this ambiguous term as not every emerging family form merits recognition or protection.

All individuals are entitled to have their individual human rights protected. But not all individuals have the right to have their chosen family arrangement or sexual lifestyles formally recognized or protected by governments as if they provide the same societal benefits as families based on man/woman marriage.

The OHCHR report seeks to advance the status of sexual orientation and same-sex relationships under international law by erroneously suggesting that while "international standards do not prescribe a specific concept of the family . . . international mechanisms have called upon States to protect specific forms of family in view of the vulnerability of their members in relations to the enjoyment of human rights" (para. 22 & 27). The report then notes that the CESCR committee "has called upon States to provide legal recognition of same-sex couples" (para. 27), and that the CRC committee "has called for States to protect children from discrimination based on their own or their parents- or legal guardian's sexual orientation or gender identity" (para. 42; *see also* para. 44). Yet these UN committee comments are nonbinding and therefore have no legal effect on Member States.[4]

UN committee comments are issued by a small group of self-proclaimed experts and in no way reflect the consensus of UN Member States. In fact, a number of UN Member States routinely contest the highly controversial issues of sexual orientation and gender identity each time attempts are made to advance them at the UN. For example, on 3 February, 2016, the African Group, the Group of Friends of the Family (a coalition of 25 UN Member States), and the Organization of Islamic Cooperation (representing 87 Member States in total) wrote letters to the UN Secretary General opposing the unauthorized promotion of sexual orientation and gender identity by the UN Postal Administration, affirming that these concepts have never gained consensus and run counter to the laws of many UN Member States.

---

[2] Sharon R. Slater, *Stand for the Family*, Ch. 3 (2010) (citing to numerous studies on the social, economic, health, educational and other benefits from man/woman marriage).

[3] Benjamin Scafidi, Principal Investigator, "The Taxpayer Costs of Divorce and Unwed Childbearing: First-Ever Estimates for the Nation and All Fifty States," Institute for American Values (2008): 5.

[4] *See* UN Charter, Art. 13, 63 and 66.

The report also reveals bias by citing several governments that have legalized same sex marriages or unions (para. 54 & 55). Yet, it completely ignores the fact that many governments have recently amended their constitutions or enacted laws defining marriage as between a man and a woman only.[5]

In summary, only "the family" (*not* various forms of the family and not units led by same-sex marriages or couples) is the entity that is strongly protected and supported by international law (i.e., binding treaties) as the fundamental unit of society.[6]

There is not enough room in this report to adequately address another serious problem with the OHCHR report. In brief, we are also deeply concerned that the report asserts that States are required, as a matter of international law, to honor the "rights" of "all individuals, including adolescents," to "access sexual and reproductive health services and information" without third party (parental) consent (para. 33).

No international laws grant rights to children of minor age to receive sexual information without parental consent. If such rights were to be promoted, it would undermine *well-established* parental rights. Specifically, "Parents have a *prior right* to choose the kind of education that shall be given to their children" UDHR, Article 26 (3). In fact, "Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child...." CRC (1990), Article 18-1. "The family has the primary responsibility for the nurturing and protection of children from infancy to adolescence. Introduction of children to the culture, *values* and *norms* of their society begins in the family." Children's Summit (1990), 15, 18.

Conclusion

To ensure that the OHCHR report does not exceed the mandate of HRC resolution 29/22 (*see* para. 28) and for it to be consistent with international law, the following edits should be made:

- Delete references in paragraphs 27, 42 and 44 to comments or recommendations from treaty monitoring bodies that promote protection for sexual orientation and legal recognition of same-sex couples based on *ultra vires* interpretations of international law.

- Remove language in paragraph 77 suggesting that there is international consensus on "the need to recognize the diverse and changing forms of the family institution."

- Remove language in paragraph 33 that grants rights to adolescents to sexual and reproductive health services and information without third party consent.

Family and Demography Foundation, Russia CitizenGO Pro Vita Onlus, Italy FEMINA EUROPA Ordo Iuris, Poland For Family Rights, Russia Child Protection Institute, Liberty University School of Law Public Education Advocates for Christian Equity - USA (PEACE-USA) Public Education Advocates for Christian Equity - Education Services (Canada) Family Policy Institute, South Africa The Magdalene Institute, USA Human Dignity Center, Hungary FAFCE (Federation of Catholic Family Associations in Europe) Novae Terrae Foundation, ITA Enraizados, Spain Profesionales por la Etica Women of the World Red Familia Mexico UN Family Rights Caucus , NGO(s) without consultative status, also share the views expressed in this statement.

---

[5] In Europe alone, 13 countries recently rewrote their laws to ensure that marriage is clearly defined as being solely between one man and one woman. Only 24 countries around the world support same-sex marriage--a fraction of the 193 Member States that make up the UN.

[6] UDHRC (1948), Article 16(3); ICESR (1976), Article 10-1; ICCPR (1976), Article 23-1; Disabilities (2006), Preamble (x); CRC Preamble; Migrant Workers, Article 44.